

ONEIDA COUNTY PLANNING & ZONING
JUNE 14, 2006
11:30 A.M. – CLOSED SESSION - COMMITTEE ROOM #2
12:30 P.M. REGULAR MEETING – COMMITTEE ROOM #2
2ND FLOOR, ONEIDA COUNTY COURT HOUSE

Members present: Chairman Bob Metropulos
Scott Holewinski
Frank Greb - Absent
Ted Cushing
Larry Greschner

Department staff present: Karl Jennrich, Zoning Director
Pete Wegner, Assistant Zoning Director
Steve Osterman, Planning Manager
Mary Bartelt, Typist III

Other County Staff: Larry Heath, Corporation Counsel
Brian Desmond, Assistant Corporation Counsel

See Attached Guest List:

It is possible that a quorum of the County Board of Supervisors will be at this meeting to gather information about a subject over which they have decision-making responsibility. This constitutes a meeting of the county board pursuant to State ex rel Badke v. Greendale Village Board, Wis 2d 553, 494 n.w. 2d 408 (1993), and must be noticed as such, although the county board will not take any formal actions at this meeting.

1. Call to order.

Chairman Metropulos called the meeting to order at 11:40 A.M., in accordance with the Wisconsin Open Meeting Law.

2. Discussion/decision to approve the agenda.

MOTION: (Larry Greschner/Scott Holewinski) to approve the June 14th, 2006 agenda. With all members present voting “aye” motion carries.

3. It is anticipated that the Committee may meet in Closed Session pursuant to Wisconsin Statutes, Section 19.85 (1)(g), conferring with legal counsel concerning strategy to be adopted by the governmental body with respect to litigation in which it is or is likely to become involved. A roll call vote will be taken to go into closed session.

MOTION: (Larry Greschner/Ted Cushing) to enter into Closed Session, Roll Call Vote: Scott Holewinski “aye”, Larry Greschner “aye”, Ted Cushing “aye” and Chair Metropulos “aye”, motion carries.

Time: 11:42 A.M.

4. A roll call vote will be taken to return to open session

MOTION: (Larry Greschner/Ted Cushing) to return to open session. Roll Call Vote: Scott Holewinski “aye”, Larry Greschner “aye”, Ted Cushing “aye” and Chair Metropulos “aye”, motion carries.

Time: 12:24 P.M.

For the record, the Committee conferred with legal counsel regarding possible litigation.

5. Discussion/decision concerning Rezone Petition #32-2005 of Squash Lake Christian Camp, Inc., and the Arthur G. Jaros Sr. and Dawn L. Jaros Charitable trust, owners, to rezone lands from #02 Single Family Zoning District and #04 Residential and Farming Zoning District to #05 Recreational Zoning

District for property described as part of the SW NW and part of Gov't Lot 4, Section 24, T36N, R7E, in the Town of Woodboro, PIN# WB 357 & WB 357-5. Said lands are depicted on Oneida County Certified Survey Map V13 P3107 & P3107A, Document #611861. A public hearing was held April 19, 2006.

Chair Bob Metropulos, Sr. gave a brief comment. "There will be no additional input or presentations to be made by any of the parties on both sides of the issue." "The decisions made by this committee on the issue will be based on the May 15, 2006 and April 19, 2006 hearing and also on additional information received by the deadline on or before June 15, 2006." "We also will take in consideration any information which was received after June 15, 2006 deadline prior to today's meeting."

Mr. Steve Osterman, Planning Manager, explained to the committee that a public hearing was held on April 19, 2006 and at the conclusion of the public hearing there was motion made and seconded that the oral portion of the public hearing was closed and that written comments would be accepted until the end of the work day on Monday May 15, 2006 and that the Planning and Zoning Committee would consider this matter at 12:30 on Wednesday June 14, 2006. The written comments will include the rebuttal by the Jaros's and that motion carried.

Mr. Osterman read for the record correspondences after the public hearing, 4/19/06. (EXHIBIT #1)

Mr. Osterman read into the record via fax, dated June 9, 2006, from Attorney Gregory Harrold, representing the Town of Woodboro to Karl Jennrich regarding an open records request for copies of any official opinions given by Corporation Counsel to the Planning and Zoning Department regarding Arthur G. Jaros (Squash Lake Christian Camp, Inc.) (EXHIBIT #2)

Mr. Osterman read into the record Mr. Jennrich's responding letter to Atty. Harrold, dated June 9, 2006. (EXHIBIT #3)

Mr. Osterman read into the record letter dated May 15, 2006 from Attorney Harrold regarding the recommendation from the Town Board of Woodboro. (EXHIBIT #4)

Mr. Osterman read into the record a fax, dated May 9, 2006 received from Attorney Harrold regarding a restricted covenant, #630222, recorded on March 14, 2006 in the Register of Deeds Office. (EXHIBIT #5)

Mr. Osterman read into the record a letter, dated May 10, 2006 from the Town of Crescent. (EXHIBIT # 6)

Mr. Osterman read into the record a letter dated May 12, 2006 from Squash Lake Christian Camp to the Planning and Zoning Committee regarding letter of response to May 1, 2006 letter of Dr. Jim Dyreby. (EXHIBIT #7)

Both Mr. Osterman and Mr. Karl Jennrich, Zoning Director read into the record a letter dated May 10, 2006 from Arthur G. Jaros, Jr. President for Squash Lake Christian Camp regarding response to letters of objectors. (EXHIBIT #8)

Mr. Larry Heath, Corporation Counsel, "Just for the record, did the Zoning Department send out copies of those of what you just read to the committee members?"

Mr. Jennrich, Zoning Director, "Yes."

Mr. Heath, "And it's my understanding that the Committee members have read that letter prior to this meeting, is that a fair statement?"

Committee responds, "Certainly."

Mr. Scott Holewinski, "Larry we have read everything except what was received after the cutoff date."

Mr. Heath, "Alright, thank you."

Mr. Jennrich reads into the record a letter from Squash Lake Christian Camp Inc. Arthur G. Jaros, Jr. President, dated May 15, 2006.

Mr. Heath, "Well let me just interject here, is it satisfactory to present here that the committee has stated they read everything up to the cutoff date?" (Mr. Heath asking Mr. Arthur Jaros)

Mr. Jaros, "The May 15, 2006 letter is satisfactory, the letter that Karl is referring to now, that's fine." "If there are other ones, let's take them one at a time."

Mr. Jennrich, "Yes, May 15, 2006, from Arthur G. Jaros, President and there is another letter here from Wes Jaros by precedence Squash Lake Christian Camp, Inc. fax date 5/15/06."

Mr. Arthur G. Jaros, "We'd like those read because the objective letters were read."

Mr. Jennrich reads into the record fax letter dated May 15, 2006 from Wes Jaros. (EXHIBIT #9)

Mr. Steve Osterman, read into the record a faxed letter dated May 15, 2006 from Randall S. Jaros. (EXHIBIT #10)

Mr. Karl Jennrich explained that correspondence was received after the deadline date of May 15, 2006.

Mr. Jennrich read into the record a letter dated May 16, 2006, which was faxed to the Planning & Zoning Department on May 17, 2006, letter directed to Mr. Larry Heath from Arthur G. Jaros. This letter was not given to the Planning & Zoning Committee.

Mr. Larry Greschner, "Mr. Chairman, I think the motion reads, "cutoff May 15, 2006, all verbal and written." "I have no problem if those are to the record, to the date, who to and who from, but I don't think this should be something that we should be listening to, to be very honest with you." "Because it contradicts our motion of May 15, 2006."

Chair Bob Metropulos, "I will refer to Counsel."

Mr. Heath, "I would recommend that if the one that you are referring to I think is in response to the Town's denial?"

Mr. Jennrich, "Correct."

Mr. Heath, "You did receive the Town's recommendation on either the deadline date or the next day, is that right?"

Mr. Jennrich, "Yes, on the deadline date."

Mr. Heath, "So the applicants here did not have an opportunity to respond to that by the deadline date." "You have read, or are aware of the Towns' recommendations, are you not?" (Mr. Heath asks the committee)

Chair Metropulos, "Yes, I am and I think we all are."

Mr. Holewinski asks how many responses were received after the cutoff date.

Mr. Jennrich, "Well we have this letter of May 16, 2006 regarding additional legal consideration, Rezone Petition #32-2005. Also received was a ten-page document dated June 8, 2006, which we received June 9, 2006 regarding this refutation from Arthur G. Jaros, Jr. President."

Mr. Heath, "Has that already been read?"

Mr. Jennrich, "No."

Mr. Heath, "Certainly make it a record, but can we just refer to your (Mr. Jaros's) specific refutation and not have to read over again the town's statement."

Mr. Arthur G. Jaros, Jr., "Certainly, and if you use the one June 8, that would be appreciated."

Mr. Heath, "Alright, so on the June 8TH one, just read what's in italics English."

Mr. Jaros, "That would be great."

Mr. Heath, "I think those should be read into the record, the italic responses." "I recommend that you allow the responses from the applicants to be part of the record." "Just read the italics."

Mr. Karl Jennrich reads into the record a letter dated June 8, 2006, via Federal Express, from Mr. Arthur G. Jaros, Jr., President, Squash Lake Christian Camp, Inc. (EXHIBIT #11)

Chair Metropulos asks if there are anymore correspondence. There are none.

Committee recessed – 2:25 P.M.

Committee reconvened – 2: 37 P.M.

Chair Metropulos asks for the staff's recommendation on the Jaros Rezone Petition #32-2005.

Mr. Jennrich stated that both he and Mr. Steve Osterman had a chance to work on a position of the staff to give to the committee. This is just a recommendation to the committee by staff on what to do with the rezone petition but it is ultimately the decision of the Planning & Zoning Committee. Mr. Jennrich reads for the record the General Information to the committee. (EXHIBIT #12)

Rezoning Petition #32-2005, change from Single Family Residential District and Residential & Farming District to District #05 Recreational for land described as Oneida County Certified Survey Map #003107 being part of the SW NW and Gov't Lot 4 Section 24 T36R 7E located in the Town of Woodboro. A public hearing was held on April 19, 2006 and this report was prepared on June 13, 2006 by Steve Osterman, Planning Manager and Karl Jennrich, Zoning Director.

Staff recommendation is to deny the rezone petition. Mr. Jennrich reviewed Section 9.86 F General Standards to the committee. Mr. Jennrich reads the General Standards.

Chair Metropulos explains that the Planning & Zoning Committee received the Planning and Zoning Committee Findings, which is basically a checklist of questions and asks that the committee go through all of them.

1. *Whether the change is in accord with the purpose of this ordinance*

- Would the rezone, if granted, be consistent with the purpose statements of the Oneida County Zoning Code as referenced in the staff recommendations?

Comments

Mr. Scott Holewinski, "Under 9.11 the purpose that Mr. Jennrich stated in his findings under the next page, "It is further the goal of this ordinance to promote the following specific purposes, under D1 it says "control building sites, placement of structures and land use through separating conflicting land uses." "Therefore, it does not want those mixed in with the residential." "I don't believe that under the zoning districts, when you look at the purpose of recreational is too far different then a single family which is the most restrictive." "So, I don't believe it does."

Mr. Larry Greschner, "Not whatsoever."

The committee agrees that the rezone would not be consistent with the purpose statements of the Oneida County Zoning Code.

- Does the 7th Circuit Court of Appeals definition of “substantial burden on religious exercise,” as set forth in the C.L.U.B. case and referenced in the staff recommendations apply to this rezone request?”

Comments

Mr. Brian Desmond, Assistant Corporation Counsel, explains that this bullet point is getting at more of a procedural question in the law that the 7th Circuit Court of Appeals decisions being that Wisconsin is a part of that circuit, that their decisions are binding upon us and their rulings are binding upon the actions of the Planning & Zoning Committee. The procedural question is to whether or not the law that they have set out is the law that we have to follow.

Mr. Scott Holewinski, “I agree with that.” Committee unanimously agrees with the second bullet (b).

- Does the current zoning allow for “religious exercise” in both of the zoning districts on the property? In what form?

Comments

Chair Metropulos, “Well, we know that they can have a church and also have living quarters and they are allowed to do exercise their religion.”

Mr. Holewinski, “They are allowed to exercise their religion, but maybe not to the magnitude that they would want, but they are allowed to do it.”

Committee unanimously agrees with the third bullet (c).

- Has Oneida County previously granted Conditional Use Permits allowing religious exercise in the Zoning district, Single Family and Residential and Farming, that are currently in place on the parcel that is subject to the rezone petition?

Comments

Committee agrees with bullet #4.

Mr. Jennrich, “Yes, we did some research and found four Conditional Use Permit approved applications in Single Family/Residential.”

Mr. Heath, “I would suggest to you that there is a consensus or not.”

Committee unanimously agrees with bullet number four (d).

- Was the development allowed with the previously issued conditional use permits for religious institutions, similar or the same as allowed by governmental entities and secular applicants?

Comments

Mr. Brian Desmond, “That is in reference to what is allowed in Single/Family zoning district where the issue has been raised that in Single Family you are allowed to have recreation fields, government meeting halls.” “Community living arrangements and governmental uses and public parks and playgrounds are discriminatory because it gives more of a, it allows more uses for the government and non-religious entities.” “Have we previously issued conditional use permits for religious entities that allow for playground type areas, park type areas, meeting rooms, class rooms, things of that nature that these secular and governmental uses are allowed?”

Committee agrees fully with bullet number 5 (e).

- Does the Oneida County currently have any Planned Unit Development Ordinance?

Comments

Mr. Jennrich, "We do not."

Committee agrees fully with Mr. Jennrich for bullet number 6 (f).

- Does Oneida County have any other ordinance that would allow for development control if the rezone were granted?

Comments

Mr. Jennrich, "No."

Committee agrees fully with Mr. Jennrich for bullet number 7 (g)

- Would any delay, uncertainty or added expense have to be born by the parties seeking this rezone, given that "religious exercise" is allowed on the property with a conditional use permit in the districts that the property is currently zoned?

Comments

Committee unanimously agrees that there would be no delay, uncertainty or added expense born by the parties seeking this rezone. Bullet number 8 (h)

- Based on the current zoning of the parcel subject to the re-zone request, could the petitioner achieve most or all of their stated objectives?"

Comments

Committee unanimously agrees that the petitioner could achieve most or all of their stated objectives.

Mr. Holewinski, "Maybe not to the magnitude which he has presented, but he could achieve the objective." Unanimously agreed, "yes" to bullet number 9 (i)

- Based on the foregoing conclusions, would a "substantial burden on religious exercise" be effectuated by a denial of Rezone Petition #32-2005?

Comments

Committee unanimously agrees that the petitioner would not suffer substantial burden on religious exercise be effectuated by a denial of Rezone Petition #32-2005. Unanimously agreed "no" to bullet number 10 (j)

- Does the Committee believe that a Compelling governmental interest exists in protecting the landowners affected by this rezone petition from the inconsistent land uses that would be available under a zoning classification of Recreational District #05

Comments

Committee unanimously agree with bullet #11 (k)

- What uses would be allowed in Recreational District #5 that would be inconsistent with the surrounding Single Family Residential district.

Comments

Mr. Jennrich, "Under the Recreational Zoning district we allow all the permitted use in District #3 Multi-Family so you would be looking at multi-family develops that would be allowed within that zoning district." "Personal stables." "Administrative Review Uses, all

the administrative review uses of District #3, Multi-family, boat liveries, boat storage and sale of bait, recreational camps with more than one principal structure, commercial riding academies, gift and specialty shops customary in a recreational district, servicing a marina, snowmobile and other recreational vehicles.” “The CUPS that would be allowed are all the conditional uses of District #3, Multi-family/Residential, hotels, motels and resorts of five units or more, mobile home, manufactured home and house trailer parks, restaurants, dinner club, taverns and other private clubs, amusement parks and drive-in theaters, marinas for boat launching areas, schools, campgrounds, telephone exchanges of right of ways, golf grounds, dog kennels, animal shelters, wildlife rehabilitation centers and veterinary clinics would all be allowed in the Recreational zoning district.” “Whereas, when you look at Single Family you are looking as single family uses primarily, gardens, customary home occupations, harvesting of any wild crop and the conditional uses would be the churches and schools, libraries, community buildings, community living arrangements, governmental uses, bed and breakfasts, public parks and pre-existing licensed resorts.”

“Residential Farming, the uses that are permitted, back to Multi-family, you could have livestock, sale of farm produce.” “Administrative Reviews of Multi-family, commercial greenhouses.” “Conditional uses of District #3, Multi-Family/Residential would be commercial agriculture/horticulture, commercial stables, airports and landing fields, mobile home, manufactured homes, house trailer parks, schools, trapping, skeet, shooting the rifle, pistol and archery ranges, contractor storage yards, retail and wholesale business, non-metallic mining, dog kennels and or cat shelter, animal shelter, wildlife, veterinary clinics.”

No consensus by the Committee for bullet #12 (l).

- Given that religious exercise is allowed with a conditional use permit in the districts that the subject parcel is currently zoned and that rezoning to a Recreational (District 5) zone allows for a multitude of inconsistent uses with the surrounding, longstanding single family districts and the lack of development controls if the property is re-zoned, is there any less restrictive means to further the County's compelling governmental interests in this rezone besides following the staff recommendation of denial?

Comments

Committee unanimously agree with “no” that there would be any less restrictive means to further the County's compelling governmental interests in this rezone beside following the staff recommendation of denial. Bullet #13 (m)

2. *Whether the change is consistent with land use plans of the County, the affected town, and Towns adjacent to the affected town.*

- Does the County currently have a land use plan?

Comments

Committee unanimously agrees that the County does not have a land use plan.

- Has the Town of Woodboro adopted a land use plan?

Comments

Committee unanimously agrees that the Town of Woodboro has adopted a land use plan. “YES”

- In what manner is the requested rezone consistent and/or inconsistent with the Land Use Plan of the Town of Woodboro?

Comments

Mr. Scott Holewinski, "I would feel that the requested rezone is inconsistent with the Land Use Plan of the Town of Woodboro."

Full consensus by the committee.

Mr. Brian Desmond, "Then you should put on the record with some reasons why you've (Planning & Zoning Committee) come to this conclusion or what you're reasoning is behind that."

Mr. Cushing, "Woodboro basically has Single Family Zoning in lake districts on waterfront property and they have no Recreational Zoning in their township."

- What if any recommendation has the Town of Woodboro given to the County with regard to the requested rezone?

Comments

The letter on record by the Town of Woodboro recommending denial.

- Has any other town commented on the requested rezone?

Comment

Yes, the letter on record by the Town of Crescent opposing the rezone petition.

3. *Whether conditions have changed in the area generally that justify the change proposed in the Petition.*

- Have there been any recent changes that would justify the granting of the rezone petition?

Comment

Committee unanimously agrees that there have been no recent changes that would justify the granting of the rezone petition.

4. *Whether the change would be in the public interest.*

- How was the public notified of Rezone Petition #32-2005

Comment

Mr. Jennrich stated that a notice of public hearing and a mailing to the adjoining property owners and the Town Board of Woodboro and published in the newspaper.

- What was the public response to Rezone Petition #32-2005?

Comment

Overwhelmingly opposed to the rezone.

5. *Whether the character of the area or neighborhood would be adversely affected by the change.*

- Again what uses would be available under District 5 recreational zoning?

Comment

This was discussed in bullet #12 (I) (See page 7)

- How would, if at all, the character of the area be changed if Rezone #32-2005 were granted?

Comment

Mr. Holewinski, "If the property was rezoned to District 5 and the camp was not built, the area would be definitely changed." "The whole residential area would change drastically."

Mr. Heath, "Any of the uses in Recreation would be allowed if it were changed."

6. *Whether the uses permitted by the change would be appropriate in the area.*

- What type of zoning does the Woodboro town land use plan designate for this area?

Comment

Residential and Residential/Farming

- Would this rezone petition, if granted, based on the staff recommendations and previous conclusions be appropriate for the area?

Comment

Committee unanimously agrees that the rezone petition, if granted would not be appropriate for the area.

7. *Whether the town board of the town in which the change would occur approves of the change.*

- Does the Town of Woodboro object to the Rezone Petition #32-2005?

Comment

Committee unanimously agrees that "yes" the Town of Woodboro does object to the Rezone Petition #32-2005 and that it is on record.

8. *The size of the property that is the subject of the proposed change.*

Comment

Mr. Holewinski, "This has been defined as thirty plus acres."

9. *Whether the area to be rezoned is defined by recognizable or clearly definable boundaries such as those found in U.S.G.S. Land Office Survey maps or recorded plats, or those created by highways, railroad rights-of-way, meandering streams or lakes.*

Comment

Mr. Ted Cushing, "This has already been defined and pointed out by staff under 9.86 (9)

10. *Position of affected landowners.*

Comment

Mr. Larry Greschner, "That is on record with documentation of all of it."

Mr. Holewinski, "It just doesn't affect the nearby landowners, it affects all the landowners around the lake".

Chair Metropulos asks the committee if they have any more discussion.

MOTION: (Scott Holewinski/Ted Cushing) that the General Standards of Approval of the rezone have not been met and that the Planning & Zoning Committee follow staff recommendation and deny the rezone petition and forward on to the Full County Board. Roll Call Vote: Scott Holewinski "aye", Larry Greschner "aye", Ted Cushing "aye" and Bob Metropulos "aye". All "aye", motion carries.

Mr. Heath, "I would ask that you (Chair Metropulos) ask the committee whether it would be appropriate to have findings prepared consistent with the committee's action today to be signed by the chairman in behalf of the committee consistent with your actions today." "The findings should be finalized and signed

off by the committee so they could be of record based of your action today.” The Planning and Zoning Committee directs Planning and Zoning Staff and the Corporation Counsel office to prepare the findings.

MOTION: (Ted Cushing/Larry Greschner) to direct staff in conjunction with Corporation Counsel office to prepare a document of findings for Planning & Zoning Committee Chairman to sign. All “aye” on voice vote. Motion carries.

6. Adjourn.

3:27 PM There being no further matters to lawfully come before the Committee, a motion was made by Bob Metropulos, second by Ted Cushing to adjourn the meeting. With all members present voting “aye”, the motion carried.

Chairman Bob Metropulos

Karl Jennrich, Zoning Director